

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

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LAMARTICE WRIGHT,

Case No. 2:18-cv-02136-RFB-VCF

Petitioner,

ORDER

V.

KYLE OLSEN, *et al.*,

Respondents.

On August 9, 2021, the Court granted, in part, Respondents' motion to dismiss Petitioner Lamartice Wright's First Amended Petition for a writ of habeas corpus, finding that (1) Grounds 2 and 3 of the First Amended Petition were unexhausted and (2) Wright had not demonstrated good cause to excuse the anticipatory procedural default of those grounds. (ECF No. 44). Thereafter, following instructions from the Court, Wright voluntarily abandoned Grounds 2 and 3. (ECF No. 46). The Court dismissed those grounds. (ECF No. 47). Later, on August 24, 2022, the Court denied the First-Amended Petition. (ECF No. 57). Judgment was entered. (ECF No. 58).

Wright appealed, and the Court of Appeals for the Ninth Circuit reversed, finding that “the district court erred in rejecting Wright’s . . . argument that [Grounds 2 and 3] should be deemed technically exhausted based on procedural default, and that he could overcome the default under Martinez v. Ryan, 566 U.S. 1 (2012).” (ECF No. 65 at 2). The Court of Appeals for the Ninth Circuit “vacate[d] the district court’s order dismissing Claims 2 and 3 and remand[ed] for the court to conduct the Martinez analysis of Wright’s claim that he can overcome any procedural default because his post-conviction counsel was ineffective for failing to present any arguments supporting Claims 2 and 3 before the state district court.” (*Id.* at 5–6).

1 The Court of Appeals for the Ninth Circuit issued its mandate on January 28, 2025. (ECF
2 No. 67). In accordance with the Court of Appeals for the Ninth Circuit's decision, the Court now
3 vacates its Order dismissing Grounds 2 and 3 and its Merits Order. Further, given that the analysis
4 of cause under Martinez and prejudice to overcome the anticipatory procedural defaults of Grounds
5 2 and 3 is necessarily intertwined with the merits of Grounds 2 and 3, the Court sets a briefing
6 schedule for Respondents to file an Answer and Wright to file a Reply on the merits on Grounds
7 2 and 3.

8 **IT IS THEREFORE ORDERED** that the January 1, 2022 Order, dismissing Grounds 2
9 and 3 (ECF No. 47) is **VACATED**.

10 **IT IS FURTHER ORDERED** that the August 24, 2022 Merits Order, and corresponding
11 Judgment (ECF Nos. 57, 58) are **VACATED**.

12 **IT IS FURTHER ORDERED** that Respondents have 60 days from the entry of this Order
13 to file and serve their Answer to Grounds 2 and 3 in accordance with this Order. Wright will then
14 have 30 days to file his Reply.

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16 **DATED:** April 14, 2025.



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19 **RICHARD F. BOULWARE, II**
20 **UNITED STATES DISTRICT JUDGE**
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